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MEMORANDUM

March 2, 1994

TO: Bob Kilpatrick
Dan Cotter

FROM: Pat Genzler

SUBJECT: Ex-USS BON HOMME RICHARD CLAIM

Attached is an outline of the claim elements that we have worked out for this claim. In addition to getting your agreement to this approach to the claim, I wanted to clarify responsibility for getting the background data together so we all have a common understanding of who's doing what.

1. PCB Removal Claim. I think SRI has about all the data needed, particularly with the imminent conclusion of the disposal contract. It seems that the only thing necessary is to update some of the figures, such as final no. of weeks involved in cutting, and the period of time for storage of the cable.
2. Asbestos Claim. I will call Richard Jaross to discuss, among other things (see below) how he estimated the total amount of asbestos to be removed, the hours required, and the schedule he had set out to do so.

Bill White is compiling comparison between the DLA survey and the actual asbestos encountered, and collecting all the relevant required data on a "sector by sector" basis. We will probably also want some type of diagram showing the sectors, if possible and not too much trouble.

Dan Cotter has the computation of the 'asbestos overhead pool' but it probably needs to be updated in light of any more recent costs encountered.

3. Chrome-Contaminated Ballast Water. Bill White has the data on disposal costs, and will try to estimate remaining quantities aboard the ship as best he can.
4. Lead Contamination. Dan Cotter will update his figures from the 85-804 submission; won't otherwise spend a lot of time on this because it's not our strongest claim.
- 5 - 7. Delay - Disruption - Impacts.

I will call Richard Jaross and try to get him to give us a more detailed "as planned" schedule, and to elaborate on how he estimated the work to be done. I also will try to get

→ SRI file
CAD 981 172 554 2A-1
CC: RAM
RICK
Joe O'Rourke
Dana Austin

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his opinion of using the pre-5/31/92 work on the Chicago as a baseline to establish "efficient production rates" for use on the BHR. If we have to go to a trial, we'll probably have to rely on Richard as a fact or expert witness to establish this so we should get his views on it up front. I'll probably just go meet with him in Baltimore one day.

Dan Cotter has and will update the information on the overhead and delay cost pool, and will update the 1992 and 1993 overhead/G&A/labor burden rates.

Someone at SRI/SWM will collect the sales price history for each major scrap product SRI sold for 1992 through the present (since we're still generating and selling scrap). They will also collect information from the files on monthly labor hours incurred and tons of metal (and \$ value of recyclable equipment, if known) for each month. If you want me to discuss this with R. Jaross, let me know.

The information collected by SWM for the metal prices and labor hours, etc. should be put on a spreadsheet if you can, and then just send the spreadsheet to me. I can reformat and incorporate it into the claim document.

8. Misstated Quantities of Navy Special Fuels. Bill White indicated that there may have been more fuel on the BHR than previously thought. Either Bill or someone else from SRI/SWM should pull together whatever records exist on fuels pulled off the BHR and sold to come up with the best estimate of actual fuels onboard.

I hope this helps us get organized to put the claim together as quickly as possible. I will begin immediately on the legal arguments to support the claims, and within the next few weeks should be sending Bob a draft "statement of facts" (drawn almost entirely from Jim Ainge's work on the prior claim & 85-804), and "legal rationale" sections for his review.

Call me at (804) 446-8631 with any questions about any of this.

Attachment: Summary of Claims - Bon Homme Richard

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SUMMARY OF CLAIMS ON BON HOMME RICHARD

1. PCB CABLE REMOVAL:

a. Cost elements:

- i. labor to remove cable that wouldn't be required if not pcb - 2 men x 52.5 hr/wk x ____ weeks.
- ii. costs of constructing containment structure & costs of moving cable several times; - 4 men x 3 days = 96 hours; \$1573 matl (Dan Cotter has backup docs)
- iii. storage costs - \$.12/sq.ft. x 4800 sq.ft. x ____ mos
- iv. lost sales value of cable - \$.225/lb x 600,000 lbs
- v. disposal costs - Dan Cotter to talk to Shane Grice, LMA - or Dana Austin will call.
 - (1) SRI pays shipping costs to SD
 - (2) pay for stripping of fluff (est. \$.12 / lb)
 - (3) pay for disposal (\$100 /T)
 - (4) SRI & disposal Kr share proceeds fm sale of copper
- vi. liability contingency fee added profit percentage to compensate SRI for risk of assuming environmental liabilities for HW far greater than projected under the IFB - claim 25% of the overall disposal costs.
- vii. CA HW generator tax; disposal fee (Dan Cotter/Dana Austin to research)

b. Data needed:

- i. tons of cable removed from each ship
 - (1) Chicago - 390,000 lbs
 - (2) BHR - 700,000 lbs
 - (3) Morton - 70,000 lbs

Total - 1,160,000 lbs
- ii. Cable test in Utah - 43,000 lbs chopped
- iii. Cable disposed of by Trojan prior to cure notice - 87,360 lbs

- c. probably no measurable impact on actual removal costs of the cable since we didn't do much of anything different in the way cable was removed from non-PCB

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cable. 'Is this true?

2. EXCESS ASBESTOS REMOVAL & DISPOSAL COSTS:

a. Locations:

i. Flight Deck

- (1) Not marked
- (2) Unexpected in this location - it had only been installed prior to placing ship in mothballs
- (3) Impact - had to conduct asbestos abatement project before the deck could be scrapped

ii. Hangar Bay

iii. Numerous compartments beneath main deck in aft section of ship

b. Cost Elements:

i. Labor

ii. "Asbestos Overhead Pool" including:

- (1) Safety Equipment
- (2) Asbestos disposal costs
- (3) Additional testing required - "bulk sampling" vs. air testing done by DLA (air testing not sufficient for any abatement work)
- (4) Equipment purchase (wouldn't we need to buy this stuff anyway to do the advertised work?)
- (5) Consultant Costs (S.Richardson time)

Note: The "asbestos overhead pool" was established because we don't have good records to attribute the amounts of asbestos disposal or other direct costs on a per sector, or per compartment basis.

c. Calculation Method:

i. Break down by "sectors" the following:

- (1) No. of compartments listed in DLA survey as asbestos containing
- (2) No of compartments in survey with no asbestos found by bulk testing
- (3) No of compartments in each sector with

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asbestos that were not on DLA survey
(4) labor hours per sector

- ii. Come up with % of "unlisted" asbestos vs. "total asbestos" removal hours for each sector.
- iii. Apply that % to the labor hours incurred in each sector, to establish "Extra Asbestos Labor Hours" per sector.
- iv. Burden the Extra Asbestos Labor Hours by a share of the "asbestos overhead pool", and claim these amounts.

3. UNANTICIPATED CHROMIUM-LADEN WATER IN BALLAST COMPARTMENTS

- a. SRI incurred unanticipated costs to dispose of chromium-contaminated ballast waters in certain compartments. These compartments could not be inspected or sampled pre-bid. Quantity of chrome-water was much greater than expected or encountered on other jobs.
 - i. Q: On what basis did we expect to find JP4 in ballast tanks?
 - ii. Q: What about Jaross cutting sked that specifies testing ballast for chrome content.
 - iii. On other ships, Chicago, Morton, etc., they found only small quantities of chrome water.
 - iv. On most recent IFB, DLA is specifically advising parties of chrome water.
- b. Get "Load Schedule" that will specify what products were expected to be sold when.
- c. Get total quantities, and claim disposal costs.

4. UNANTICIPATED LEAD CONTAMINATION - from burning of lead-containing paints on vessel

- a. Dan Cotter to update rates and put in the claim as submitted in the 85-804.

5. DELAY - ADDITIONAL COSTS OF OPERATION DUE TO DELAYS IN COMPLETION OF BHR. Impact of government-chargeable delays on BHR and Chicago Contract causing delays and impacts on BHR Contract.

- a. Method: from comparison of "as planned" and "as built"

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schedules, derive days of delay incurred on BHR attributable to:

- (1) encountering unexpected PCB cable on BHR and Govt. direction to cease selling cabling
- (2) more extensive asbestos contamination
- i. Need R. Jaross to fill out more detailed "as planned" schedule so we can generate the charts
- ii. SRI to put together "as built" schedule from existing records
- iii. SRI to generate charts for schedules
- b. Cost Elements:
 - i. Rent & other fixed costs
 - ii. Overhead
 - iii. Salaries
 - iv. Ship dismantling insurance (issued for each contract)
 - v. Wharfage - SRI paid SWM, who paid the port, on a per foot basis for use of the pier. (Est \$15k/mo)
 - vi. Utilities
 - vii. Oily waste disposal costs
 - (1) SRI (Bill White) to compute "average daily oily water production" from BHR, and we'll apply that production rate to days of delay in same manner as utility costs.
- c. Calculation of overhead and other rates: To be calculated from actual cost figures. Calculate rates by fiscal year (calendar year for SRI).
 - i. Dan Cotter to re-calculate rates.

6. DELAY - LOSS OF INCOME FROM SALE OF RECYCLABLES AND SCRAP
DUE TO GOVERNMENT-CHARGABLE DELAYS

- a. Generate a spreadsheet that shows for each month of work, the following information:
 - (1) For each major type of metal product -- the prevailing sales price/lb
 - (2) the amounts removed from the ship

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- (3) projected income from the removal
 - b. Generate 2d spreadsheet showing same data with actual figures for sales price for each type of metal, the lbs. generated/sold, \$ income
 - c. Do a "lost interest" or "time value of money" claim for the difference between the projected income and the actual income realized.
7. DISRUPTION - INEFFICIENCY DUE TO IMPACT OF PCB CABLE AND EXTENDED ASBESTOS REMOVAL
- a. Delay/disruption of work:
 - i. Generate both "As-planned" & "As-built" CPM charts for BHR work.
 - b. Inefficiency - cause was interference with cutting due to ongoing asbestos removal
 - i. Compute average "efficient production rate" from Chicago before receipt of the cure notice (5/31/92), which is assumed to be efficient production, in terms of LABOR HOURS/TON OF MATERIAL produced.
 - ii. Set up spreadsheet showing, for each month of BHR work, the Labor Hours incurred, the Tons of Saleable material produced, and derive the Actual Production Rate in terms of LABOR HOURS/TON OF MATERIAL.
 - iii. Compare the actual production rate to the "efficient" or Chicago rate of production to compute inefficient hours each month (ie. the excess hours of labor over what it should have taken for that month's production.
8. INACCURATE DESCRIPTION OF QUANTITIES ONBOARD THE VESSEL.
- IFB listed 237,000 gals of navy special fuel, which has market price of .23 to .33 /gal. There were actually only about 23,000 gals onboard. Most tanks had about 6" of oil on top and the rest was water.
- Claim: lost income thru inaccurate description of the quantities of saleable fuel onboard.